



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket Number USCG-2012-0111]

RIN 1625- AA00; 1625-AA08

Special Local Regulation and Safety Zones; Marine Events in
Captain of the Port Sector Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations and safety zones for marine events on the navigable waters within the Captain of the Port (COTP) Sector Long Island Sound zone for regattas, fireworks displays and swim events.

This action is necessary to provide for the safety of life on navigable waters during the events. Entering into, transiting through, remaining, anchoring or mooring within these regulated areas would be prohibited unless authorized by the COTP Sector Long Island Sound.

DATES: This rule is effective from [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION] until November 11, 2012.

This rule will be enforced during the specific dates and time listed in TABLE 1 and 2 to §165.T01-0111.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2012-0111]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468-4544, Joseph.L.Graun@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
LIS	Long Island Sound

A. Regulatory History and Information

On April 4, 2012 the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Sector Long Island Sound Zone, in the Federal Register (77 FR 20324).

We received no comments on the NPRM. No requests for a public meeting were received and no public meetings were held.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1226, 1231, 1233; 46 U.S.C. Chapters 454, 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory special local regulations and safety zones.

This temporary rule establishes special local regulations and safety zones in order to provide for the safety of life on navigable waterways during regattas, fireworks displays and swim events.

C. Discussion of Comments, Changes and the Final Rule

In the NPRM the Coast Guard stated the following events: Davis Park Fireworks, Charles W. Morgan Anniversary Fireworks and Waves of Hope Swim, had not chose a date and time for their events and we would announced them in the final rule. The dates for each of the events are as follows: The Davis Park Fireworks

have been removed from the table because the sponsor has decided not to hold the event. Charles W. Morgan Anniversary Fireworks will be held on November 3, 2012 and Waves of Hope Swim will be held on August 13, 2012. The dates can also be found in TABLE 1 & 2 to §165.T01-0111.

The following events have been removed from this rulemaking and placed in a separate rulemaking under docket number (USCG-2012-0477) titled Safety Zones; Fireworks Displays in Captain of the Port Long Island Sound Zone. Salute to Veterans Devon Yacht Club Fireworks, Dolan Family Fourth Fireworks, Islip Fireworks, Madison Fireworks, Stratford Fireworks, Rowayton Fireworks, Quarentello Wedding Fireworks and Niantic Bay Fireworks. These events have been moved because there was less than 30 days between publication of this rule and the start of each events. Moving these events to a separate rulemaking allows the Coast Guard to accommodate a 30 day window between this rule publication and first day of being effective.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under

section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: The regulated areas are of limited duration and cover only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterways outside of the regulated areas. Persons or vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative.

Advanced public notifications will also be made to the local maritime community through the Local Notice to Mariners as well as Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies

under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor or moor within the regulated areas during the enforcement periods stated for each event listed below in the List of Subjects.

These temporary special local regulations and safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: the regulated areas are of limited size and of short duration, vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas, and vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative. Additionally, before the effective period, notifications will be made to the local maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the events.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have

implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and

3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations and safety zones. This rule is categorically excluded from further review under paragraph 34(g)&(h), of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. Add § 100.35T01-0111 to read as follows:

§ 100.35T01-0111 Special Local Regulations; Regattas in the Coast Guard Sector Long Island Sound Captain of the Port Zone.

(a) Regulations. The following regulations apply to the marine events listed in TABLE 1 to §100.35T01-0111. These regulations will be enforced for the duration of each event, on the dates indicated. Notifications will be made to the local maritime community through all appropriate means such as Local Notice to Mariners or Broadcast Notice to Mariners well in advance of the events. First Coast Guard District Local Notice to Mariners can be found at: <http://www.navcen.uscg.gov/>.

(b) Definitions. The following definitions apply to this section:

(1) Designated Representative. A "designated representative" is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Vessel operators desiring to enter or operate within the regulated areas shall contact the COTP Sector Long Island Sound at 203-468-4401 (Sector LIS command center) or the designated representative via VHF channel 16.

(d) Vessels may not transit the regulated areas without the COTP Sector Long Island Sound or designated representative approval. Vessels permitted to transit must operate at a no wake speed, in

a manner which will not endanger participants or other crafts in the event.

(e) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP Sector Long Island Sound or designated representative.

(f) The COTP Sector Long Island Sound or designated representative may control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both. The COTP Sector Long Island Sound or designated representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) For all regattas listed, vessels not participating in the event, swimmers, and personal watercraft of any nature are prohibited from entering or moving within the regulated area unless authorized by the COTP Sector Long Island Sound or designated representative. Vessels within the regulated area must be at anchor within a designated spectator area or moored to

a waterfront facility in a way that will not interfere with the progress of the event.

TABLE 1 to §100.35T01-0111

1 Hartford Dragon Boat Regatta	<ul style="list-style-type: none"> • Dates: August 18 and 19, 2012 • Time 8 a.m. until 4:30 p.m. each day. • Regulated area: All waters of the Connecticut River in Hartford, CT between the Bulkeley Bridge 41°46'10.10"N, 072°39'56.13"W and the Wilbur Cross Bridge 41°45'11.67"N, 072°39'13.64"W North American Datum 1983 (NAD 83) .
2 Kayak for a Cause Regatta	<ul style="list-style-type: none"> • Date: July 21, 2012 • Time: 8 a.m. until 3 p.m. • Regulated area: All water of Long Island Sound within a nine mile long and half mile wide rectangle shaped regatta course connecting Norwich, CT and Crab Meadow, NY. The regulated area beginning in Norwich CT east of Shady Beach at 41°5'32.24"N, 073°23'11.18"W then heads south crossing Long Island Sound to a point east of Crab Meadow Beach, Crab Meadow, NY at 40°55'37.21"N, 073°19'2.14"W then turns west connecting to a point west of Crab Meadow Beach at 40°55'48.3"N, 073°19'51.88"W, then turns north crossing Long Island Sound to the western boundary of Calf Pasture Beach Norwich, CT at 41°4'57.54"N, 073°23'53.21"W then turns east back to its starting point at 41°5'32.24"N, 073°23'11.18"W North American Datum 1983 (NAD 83) • Additional stipulations: 1) Spectators must maintain a minimum distance of 100 yards from each event participant and support vessel. 2) Vessels that maintain the minimum required distance from event participants and support vessels may transit through the regatta course.

PART 165 - REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 454, 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6 and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Add §165.T01-0111 to read as follows:

§ 165.T01-0111 Safety Zones; Fireworks Displays and Swim Events in Captain of the Port Long Island Sound Zone

(a) Regulations. The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the fireworks displays, air shows, and swim events listed in TABLE 1 and TABLE 2 of §165.T01-0111. These

regulations will be enforced for the duration of each event. Notifications will be made to the local maritime community through all appropriate means such as Local Notice to Mariners or Broadcast Notice to Mariners well in advance of the events. Mariners should consult their Local Notice to Mariners to remain apprised of schedule or event changes. First Coast Guard District Local Notice to Mariners can be found at <http://www.navcen.uscg.gov/>.

(b) Definitions. The following definitions apply to this section:

(1) Designated Representative. A "designated representative" is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Vessel operators desiring to enter or operate within the regulated areas should contact the COTP Sector Long Island Sound at 203-468-4401 (Sector LIS command center) or the designated representative via VHF channel 16 to obtain permission to do so.

(d) Spectators or other vessels shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP Sector Long Island Sound or designated representative.

(e) Upon being hailed by a U.S. Coast Guard vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) The COTP Sector Long Island Sound or designated representative may delay or terminate any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(g) The regulated area for all fireworks displays listed in TABLE 1 to §165.T01-0111 is that area of navigable waters within a 1000

foot radius of the launch platform or launch site for each fireworks display, unless otherwise noted in TABLE 1 to §165.T01-0111 or modified in USCG First District Local Notice to Mariners at: <http://www.navcen.uscg.gov/>.

(h) Fireworks barges used in these locations will also have a sign on their port and starboard side labeled "FIREWORKS-STAY AWAY". This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background. Shore sites used in these locations will display a sign labeled "FIREWORKS-STAY AWAY" with the same dimensions. These zones will be enforced from 8:30 p.m. to 10:30 p.m. each day a barge with a "FIREWORKS-STAY AWAY" sign on the port and starboard side is on-scene or a "FIREWORKS-STAY AWAY" sign is posted in a location listed in TABLE 1 to §165.T01-0111.

(i) Enforcement period.

(1) Each fireworks display will be enforced from 8:30 p.m. until 10 p.m. on the respective dates listed in Table 1 of § 165.T01-0111.

(2) Each swim event will be enforced during the date and time listed in Table 2 of § 165.T01-0111.

TABLE 1 to §165.T01-0111

8	August
8.1 Shelter Island Yacht Club Fireworks	<ul style="list-style-type: none"> • Date: August 11, 2012 • Rain date: August 12, 2012 • Location: Waters of Dering Harbor north of Shelter Island Yacht Club in Shelter Island, NY in approximate position 41°05'23.47"N, 072°21'11.18"W (NAD 83).
8.2 Stamford Fireworks	<ul style="list-style-type: none"> • Date: August 30, 2012. • Rain date: August 31, 2012 • Location: Waters of Stamford Harbor, off Kosciuszco Park in Stamford, CT in approximate position 41°1'48.46"N, 073°32'15.32"W (NAD 83).
11	November
1 Charles W. Morgan Anniversary Fireworks	<ul style="list-style-type: none"> • Date: November 3, 2012 • Rain date: November 10, 2012 • Location: Waters of the Mystic River, north of the Mystic Seaport Light, Mystic, CT in approximate position 41°21'56.455"N, 071°57'58.32"W (NAD 83).

TABLE 2 to §165.T01-0111

July & August

1 Waves of Hope Swim	<ul style="list-style-type: none"> • Date: August 13, 2012. • Time: 8 a.m. until 10 a.m. <p>Location: All waters of the Great South Bay off Amityville, NY shoreward of a line created by connecting the following points. Beginning at 40°39'22.38"N,</p>
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	073°25'31.63"W then to 40°39'2.18"N, 073°25'31.63"W then to 40°39'2.18"N, 073°24'03.81"W, ending at 40°39'18.27"N, 073°24'03.81"W North American Datum 1983 (NAD 83)
2 Stonewall Swim	<ul style="list-style-type: none"> • Date: August 4, 2012. • Time: 8:30 a.m. until 12:30 p.m. <p>Location: All navigable waters of the Great South Bay within an three miles long and half mile wide box connecting Snedecor Avenue in Bayport, NY to Porgie Walk in Fire Island, NY. Formed by connecting the following points. Beginning at 40°43'40.24"N, 073°03'41.5"W then to 40°43'40"N, 073°03'13.4"W, then to 40°40'4.13N, 073°03'43.81"W then to 40°40'8.3"N, 073°03'17.7"W and ending at the beginning point 40°43'40.24"N, 073°03'41.5"W (NAD 83).</p>

Dated: June 07, 2012

J. M. Vojvodich
 Captain, U. S. Coast Guard
 Captain of the Port Sector Long Island Sound

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